

FILED

AUG 23 2023

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

DEVAUNTY LEWIS,
NICHOLAS JOHNSON,

Defendants.

INDICTMENT

CASE NO

01 : 23 CR 00455

Title 18, United States Code,
Sections 371, 922(a)(1)(A),
922(g)(1), 924(a)(1)(D),
924(a)(8), 933(a)(1), (a)(3), and
2

JUDGE RUIZ

COUNT 1

(Conspiracy to Commit Engaging in the Business of Dealing in Firearms without a License,
18 U.S.C. §§ 371 and 922(a)(1)(A))

The Grand Jury charges:

1. From on or about July 25, 2023 and continuing to on or about August 9, 2023, in the Northern District of Ohio, Eastern Division, Defendants DEVAUNTY LEWIS and NICHOLAS JOHNSON, and others known and unknown to the Grand Jury, did knowingly and intentionally combine, conspire, confederate and agree together, with each other, and with diverse other persons, to unlawfully, knowingly and intentionally commit offenses against the United States, that is to engage in the business of importing, manufacturing, or dealing in firearms without a federal firearms license, in violation of Title 18, United States Code, Section 922(a)(1)(A).

OBJECT OF THE CONSPIRACY

2. It was the object of this conspiracy that Defendants DEVAUNTY LEWIS and NICHOLAS JOHNSON, not being licensed importers, licensed manufacturers, or licensed dealers, would willfully engage in the business of dealing firearms in exchange for United States currency.

MANNER AND MEANS OF THE CONSPIRACY

3. It was part of the conspiracy that Defendants DEVAUNTY LEWIS and NICHOLAS JOHNSON:

- a. Did not obtain federal firearms licenses;
- b. Obtained firearms from multiple sources and then re-sold the firearms to buyers for a profit;
- c. Obtained firearms to re-sell that included stolen firearms and firearms that had been used to commit violent crimes;
- d. Sold loaded firearms;
- e. Provided ammunition with the firearms they sold;
- f. Communicated with potential buyers using cellular telephones, text messages, and social media applications to arrange for potential firearms sales;
- g. Worked together to sell firearms to potential buyers;
- h. Combined sales of firearms with sales of controlled substances;
- i. Sold firearms to buyers who utilized secret compartments in their vehicles to store firearms;
- j. Sold firearms to buyers they knew or had reason to know planned to traffic the firearms to Canada and Mexico;

k. Sold firearms to buyers they knew or had reason to know were prohibited from possessing firearms;

l. Sold firearms to buyers they knew or had reason to know planned to use the firearms to commit felony offenses; and

m. Sold a combined total of at least approximately 10 firearms between on or about July 27, 2023, and on or about August 9, 2023, for a total of at least approximately \$8,000.

ACTS IN FURTHERANCE OF THE CONSPIRACY

4. In furtherance of the conspiracy and to affect the object of the conspiracy, DEVAUNTY LEWIS and NICHOLAS JOHNSON, and others performed overt acts in the Northern District of Ohio and elsewhere, including but not limited to, at least one of the following acts:

July 27, 2023, sale of a Glock, model 19, 9mm pistol, Serial Number BDLL365

5. On or about July 25, 2023, in the Northern District of Ohio, Eastern Division, Defendant NICHOLAS JOHNSON communicated with undercover law enforcement officers (UCs) via text regarding the prices and types of firearms:

JOHNSON: M4 1750
JOHNSON: 2day if ready
UC: U gota pic?
UC: U got it on u or u gotta grab it?
JOHNSON: Be to it in abt 20
JOHNSON: U can check it out

6. On or about July 26, 2023, JOHNSON and the UCs exchanged text messages regarding the planned sale of firearms to the UCs:

JOHNSON: Wld U interested in Taurus G3X
UC: Yea we can scoop up whatever u got. Still got the M4 to or nah?
UC: Lmk cuz we about to be on the road
UC: Nd lmk price for the g3

JOHNSON: M4 acting flake nd I'm tryna keep this official business so im moving forward ... if he come around by the time I get these otha couple for the day together nd u still on it cool, if not we on to the next feel me

JOHNSON: Get u a ticket on that inna sec to

JOHNSON: Can you take glock 26 w/ G3 today

JOHNSON: Yea And 625 G3/ Glock 26 1000

JOHNSON: I only did get the G3 in time, but its cool I can meet un somewhere inna minute I work 7am-3pm tomar

7. On or about July 27, 2023, JOHNSON and UCs exchanged text messages regarding the planned sale of firearms to the UCs:

JOHNSON: Glock 19 (mini extended clip) 1150

JOHNSON: .380 cahrt available also

UC: Ok what the note on the .380? Ill take the glock for sure we good on that. U still good for 12oclock?

JOHNSON: Yup just getting u together

JOHNSON: omw back now

JOHNSON: Tryna get .380 ticket

8. On or about July 27, 2023, UCs met with JOHNSON on Prospect Avenue in Cleveland, Ohio, where JOHNSON sold a Glock, model 19, 9mm pistol, bearing serial number BDLL365, in exchange for \$1,100 in United States currency to the UCs.

9. The UCs asked JOHNSON if he had procured the .380 caliber firearm, to which JOHNSON replied that "we almost had to whoop his a--," referring to the owner of the firearm.

10. JOHNSON stated to the UCs that he did not want to know too much about their "operation," but asked if they obliterated the serial numbers on the firearms.

11. The Glock, Model 19, 9mm caliber pistol, bearing serial number BDLL365, was reported stolen on August 30, 2021, to law enforcement in Kent, Ohio.

July 28, 2023, sale of a Taurus, model PT 140 G2, .40 caliber pistol, serial number SKM75835 and Kel Tec, model SUB-2000, 9mm pistol, serial number FGKT82 with extended magazine

12. On or about July 28, 2023, in the Northern District of Ohio, Eastern Division, Defendant NICHOLAS JOHNSON communicated with UCs via text regarding the sale of firearms:

UC: U close?
JOHNSON: Yea coming up superior, woke up ah lil late my bad bro I'm checking everything out as I type
JOHNSON: Then straight to u, im not far from the meet
UC: Like superior downtown?
UC: How long u think
JOHNSON: Yea close, abt 40th
JOHNSON: 10 mins
JOHNSON: Wanted to visually check the merch did get opportunity yesterday
JOHNSON: *didn't

13. On or about July 28, 2023, JOHNSON and DEVAUNTY LEWIS arrived at the pre-determined meeting location on Prospect Avenue in Cleveland, Ohio.

14. JOHNSON exited his vehicle and entered the UCs vehicle and sold a Taurus, model PT 140 G2, .40 caliber pistol, bearing serial number SKM75835; and a Kel Tec, model SUB-2000, 9mm pistol, bearing serial number FGKT82 with extended magazine, in exchange for \$1,900 in United States currency to the UCs.

15. During this transaction, UCs informed JOHNSON that they planned on transporting the firearms to Canada to re-sell them. JOHNSON stated that he planned on purchasing firearms from a gun store and then re-sell them. UCs asked JOHNSON if he had any consideration for what the firearms would be used for, to which JOHNSON responded, "I don't give a f---k if yall go kill a bunch of people, I just need to clear my a--." The UCs informed JOHNSON that they could not legally possess the firearms because they were convicted felons and that the firearms would be used for criminal purposes.

16. While this transaction occurred, a UC spoke with LEWIS who was seated in the passenger seat of JOHNSON's vehicle. The UC asked LEWIS if he was working with JOHNSON on the sale of firearms, to which LEWIS replied in the affirmative. LEWIS indicated that he could provide more firearms and supplied his telephone number. LEWIS informed the UC that JOHNSON asked him for his assistance because he was the "behind the scenes guy." The UC informed LEWIS that he planned on trafficking the purchased firearms in Canada or Mexico.

August 2, 2023, sale of a Beretta, Model 92, 9mm pistol bearing serial number BER780673 and a Bryco Arms, Model 38, .380 caliber pistol bearing serial number 082361

17. On or about August 2, 2023, in the Northern District of Ohio, Eastern Division, Defendant DEVAUNTY LEWIS communicated with UCs via text regarding the sale of firearms and fentanyl:

LEWIS:	I'm finna go pick up a couple
UC:	Aight lemme no
UC:	What the tiket on a zip
LEWIS:	White or brown ?
UC:	Brown
LEWIS:	My bad I was getting all the way up but 1100
LEWIS:	It's a 9 -10 for sure

18. On or about August 2, 2023, LEWIS met the UCs in the parking lot of RESTAURANT1 located on Steelyard Drive, Cleveland, Ohio.

19. LEWIS entered the rear seat of the UC vehicle and sold approximately 28.14 grams of a mixture and substance containing a detectable fentanyl, a Schedule II controlled substance; a Beretta, Model 92, 9mm pistol bearing serial number BER780673; and a Bryco Arms, Model 38, .380 caliber pistol bearing serial number 082361, in exchange for \$2,200 in United States currency.

20. The Beretta, Model 92, 9mm pistol bearing serial number BER780673, was found to have matched spent shell casings recovered at crime scenes from:

October 21, 2021- Improperly Discharging a Firearm on or near a Prohibited Premises report in the City of Cleveland, Ohio.

May 31, 2023 - Felonious Assault report in the City of Cleveland, Ohio.

June 4, 2023 - Improperly Discharging a Firearm on or near a Prohibited Premises report in the City of Cleveland, Ohio.

August 3, 2023, sale of a F.N. (FN Herstal), Model 503, 9mm pistol bearing serial number CV008080

21. From on or about August 2, 2023, through on or about August 3, 2023, in the Northern District of Ohio, Eastern Division, Defendant DEVAUNTY LEWIS communicated with UCs via text regarding the sale of firearms:

LEWIS: Brand new 850\$ Glock

UC: Its on ill hit u tumorrow

LEWIS: I got a FN

UC: U got both bith or finna have the fn

LEWIS: Fn

UC: Whats the ticket

LEWIS: Same price

22. On or about August 3, 2023, LEWIS met the UCs in the parking lot of RESTAURANT1 located on Steelyard Drive, Cleveland, Ohio.

23. LEWIS entered the rear seat of the UC vehicle and sold an F.N. (FN Herstal), Model 503, 9mm pistol bearing serial number CV008080, in exchange for \$900 in United States currency to the UCs.

August 7, 2023, sale of a Glock, Model 43, 9mm pistol bearing serial number ABXY846, a Taurus, Model G3X, 9mm pistol bearing serial number ACM700869, and a Taurus, Model G2C, 9mm pistol bearing serial number TMU78500

24. On or about August 4, 2023, in the Northern District of Ohio, Eastern Division, Defendant DEVAUNTY LEWIS communicated with UCs via text regarding the sale of firearms:

LEWIS: Yo you guys gone?
UC: Bout to leave what you got
LEWIS: Yo I didn't grab that , but I grabbed the hand piece

UC: Wgat kind
LEWIS: A turaus

25. On or about August 5, 2023, LEWIS and UCs exchanged text messages regarding the planned sale of firearms to the UCs:

LEWIS: Yo you for sure coming back Monday I got g locks
UC: Ye we should be bak round 12

26. On or about August 6, 2023, LEWIS and UCs exchanged text messages regarding the planned sale of firearms and fentanyl to the UCs:

LEWIS: Yo should I get the other thing together for tomorrow or not yet
UC: Ye get it together for tumorrow
UC: Ill hit u as soon as im bak
LEWIS: Same thing? Zip?
UC: Oh sh—bi thought you was tslkin bout the straps
LEWIS: Naw I got those already
UC: I prolyl fet 2 zips tues if u can put itb2 gether
LEWIS: Yeah most definitely just gotta kno before I get in lab
UC: Ye ill just get errything Tuesday if thsts cool
LEWIS: Yeah that's cool, if u can I need u to grab these straps
UC: I can prolyl do dat, ill tap unas soon as I get back

27. On or about August 7, 2023, LEWIS met the UCs in the parking lot of RESTAURANT1 located on Steelyard Drive in Cleveland, Ohio.

28. LEWIS entered the rear seat of the UC vehicle and sold a Glock, model 43, 9mm pistol bearing serial number ABXY846; a Taurus, Model G3X, 9mm pistol bearing serial number ACM700869; and a Taurus, Model G2C, 9mm pistol bearing serial number TMU78500 in exchange for \$2,300 in United States currency to the UCs.

29. LEWIS and the UCs discussed the purchase of two ounces of fentanyl at a later date.

August 8, 2023, sale of a Polymer80, Model PF940C, 9mm pistol with no serial number

30. On or about August 8, 2023, in the Northern District of Ohio, Eastern Division, Defendant DEVAUNTY LEWIS communicated with UCs via text regarding the sale of firearms and fentanyl to the UCs:

LEWIS: Yo what time a be good to meet for the 2 z's
UC: Im gunna have to grab it 2murrow that trip got me a day behin
LEWIS: Alright that's cool so it's a green light to put it together?
UC: Fo sho
LEWIS: Alright I'm putting it together they a be ready
UC: Bet
LEWIS: Aye bring another g lock wit me ?
UC: U got 2 glizz And the k ?
UC: Aww I got u yeah bring it
LEWIS: I got u

31. On or about August 9, 2023, LEWIS met the UCs in the parking lot of RESTAURANT1 located on Steelyard Drive in Cleveland, Ohio.

32. LEWIS entered the rear seat of the UC vehicle and sold an unloaded Polymer80, Model PF940C, 9mm pistol with no serial number and approximately 57.41 grams of a mixture and substance containing a detectable amount of fentanyl, a Schedule II controlled substance, in exchange for \$800 and \$2,200 respectively, to the UCs.

All in violation of Title 18, United States Code, Section 371.

COUNT 2

(Engaging in the Business of Importing, Manufacturing, or Dealing in Firearms without a Federal Firearms License, 18 U.S.C. §§ 922(a)(1)(A), 924(a)(1)(D), and 2)

The Grand Jury further charges:

33. The allegations of paragraphs 2 through 32 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

34. On or about July 27, 2023, through on or about July 28, 2023, in the Northern District of Ohio, Eastern Division, Defendant NICHOLAS JOHNSON, not being a licensed

importer, licensed manufacturer, or licensed dealer, did willfully engage in the business of importing, manufacturing, or dealing in firearms, those being:

DATE	FIREARM	PRICE
7/27/23	Glock, model 19, 9mm pistol, Serial Number BDLL365	\$1,100
7/28/23	Taurus, model PT 140 G2, .40 caliber pistol, serial number SKM75835 and Kel Tec, model SUB-2000, 9mm pistol, serial number FGKT82	\$1,900

all having been shipped and transported in interstate commerce, in violation of Title 18, United States Code, Sections 922(a)(1)(A), 924(a)(1)(D), and 2.

COUNT 3

(Engaging in the Business of Importing, Manufacturing, or Dealing in Firearms without a Federal Firearms License, 18 U.S.C. §§ 922(a)(1)(A), 924(a)(1)(D), and 2)

The Grand Jury further charges:

35. The allegations of paragraphs 2 through 32 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

36. On or about July 28, 2023, through on or about August 9, 2023, in the Northern District of Ohio, Eastern Division, Defendant DEVAUNTY LEWIS, not being a licensed importer, licensed manufacturer, or licensed dealer, did willfully engage in the business of importing, manufacturing, or dealing in firearms, those being:

DATE	FIREARM	PRICE
7/28/23	Taurus, model PT 140 G2, .40 caliber pistol, serial number SKM75835 and Kel Tec, model SUB-2000, 9mm pistol, serial number FGKT82	\$1,900
8/2/23	Beretta, Model 92, 9mm pistol bearing serial number BER780673; and a Bryco Arms, Model 38, .380 caliber pistol bearing serial number 082361	\$1,000
8/3/23	a F.N. (FN Herstal), Model 503, 9mm pistol bearing serial number CV008080	\$900
8/7/23	a Glock, model 43, 9mm pistol bearing serial number ABXY846; a Taurus, Model G3X, 9mm pistol bearing serial number ACM700869; and a Taurus, Model G2C, 9mm pistol bearing serial number TMU78500	\$2,300

all having been shipped and transported in interstate commerce, in violation of Title 18, United States Code, Sections 922(a)(1)(A), 924(a)(1)(D), and 2.

COUNT 4

(Conspiracy to Engage in Firearms Trafficking, 18 U.S.C. § 933(a)(1) and (3))

The Grand Jury further charges:

37. The allegations of paragraphs 2 through 32 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

38. From on or about July 27, 2023, through on or about August 9, 2023, the exact dates to the Grand Jury being unknown, in the Northern District of Ohio, Eastern Division and elsewhere, Defendants DEVAUNTY LEWIS and NICHOLAS JOHNSON and others known and unknown to the Grand Jury did knowingly and intentionally combine, conspire, confederate and agree together, with each other, and with diverse other persons, to ship, transport, transfer, cause to be transported or otherwise dispose of firearms to other person, in or otherwise affecting commerce, knowing or having reasonable cause to believe that the use, carrying, or possession of the firearms by the other persons would constitute a felony, in violation of Title 18, United States Code, Sections 933(a)(1) and (3).

COUNT 5

(Trafficking in Firearms, 18 U.S.C. § 933(a)(1))

The Grand Jury further charges:

39. The allegations of paragraphs 2 through 32 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

40. On or about July 27, 2023, through on or about July 28, 2023, in the Northern District of Ohio, Eastern Division, Defendant NICHOLAS JOHNSON did ship, transport, transfer, cause to be transported, or otherwise dispose of firearms, to wit:

DATE	FIREARM	PRICE
7/27/23	Glock, model 19, 9mm pistol, Serial Number BDLL365	\$1,100
7/28/23	Taurus, model PT 140 G2, .40 caliber pistol, serial number SKM75835 and Kel Tec, model SUB-2000, 9mm pistol, serial number FGKT82	\$1,900

to a Recipient in or otherwise affecting commerce, knowing or having reasonable cause to believe that the use, carrying, or possession of the firearm by the Recipient would constitute a felony, in violation of Title 18, United States Code, Section 933(a)(1).

COUNT 6
(Trafficking in Firearms, 18 U.S.C. § 933(a)(1))

The Grand Jury further charges:

41. The allegations of paragraphs 2 through 32 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

42. On or about July 28, 2023, through on or about August 9, 2023, in the Northern District of Ohio, Eastern Division, Defendant DEVAUNTY LEWIS did ship, transport, transfer, cause to be transported, or otherwise dispose of firearms, to wit:

DATE	FIREARM	PRICE
7/28/23	Taurus, model PT 140 G2, .40 caliber pistol, serial number SKM75835 and Kel Tec, model SUB-2000, 9mm pistol, serial number FGKT82	\$1,900
8/2/23	Beretta, Model 92, 9mm pistol bearing serial number BER780673; and a Bryco Arms, Model 38, .380 caliber pistol bearing serial number 082361	\$1,000
8/3/23	a F.N. (FN Herstal), Model 503, 9mm pistol bearing serial number CV008080	\$900
8/7/23	a Glock, model 43, 9mm pistol bearing serial number ABXY846; a Taurus, Model G3X, 9mm pistol bearing serial number ACM700869; and a Taurus, Model G2C, 9mm pistol bearing serial number TMU78500	\$2,300

to a Recipient in or otherwise affecting commerce, knowing or having reasonable cause to believe that the use, carrying, or possession of the firearm by the Recipient would constitute a felony, in violation of Title 18, United States Code, Section 933(a)(1).

COUNT 7

(Felon in Possession of a Firearm, 18 U.S.C. §§ 922(g)(1) and 924(a)(8))

The Grand Jury further charges:

43. On or about August 2, 2023, in the Northern District of Ohio, Eastern Division, Defendant DEVAUNTY LEWIS, knowing he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, that being: Assault on a Peace Officer, a felony of the fourth degree, on or about July 23, 2015, in Case Number CR-15-594167-A, in the Cuyahoga County Court of Common Pleas, knowingly possessed in and affecting interstate commerce firearms, to wit: a Beretta, Model 92, 9mm pistol bearing serial number BER780673; and a Bryco Arms, Model 38, .380 caliber pistol bearing serial number 082361, said firearms having been shipped and transported in interstate commerce, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(8).

COUNT 8

(Felon in Possession of a Firearm, 18 U.S.C. §§ 922(g)(1) and 924(a)(8))

The Grand Jury further charges:

44. On or about August 3, 2023, in the Northern District of Ohio, Eastern Division, Defendant DEVAUNTY LEWIS, knowing he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, that being: Assault on a Peace Officer, a felony of the fourth degree, on or about July 23, 2015, in Case Number CR-15-594167-A, in the Cuyahoga County Court of Common Pleas, knowingly possessed in and affecting interstate commerce firearm, to wit: an F.N. (FN Herstal), Model 503, 9mm pistol bearing serial number CV008080, said firearm having been shipped and transported in interstate commerce, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(8).

COUNT 9

(Felon in Possession of a Firearm, 18 U.S.C. §§ 922(g)(1) and 924(a)(8))

The Grand Jury further charges:

45. On or about August 7, 2023, in the Northern District of Ohio, Eastern Division, Defendant DEVAUNTY LEWIS, knowing he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, that being: Assault on a Peace Officer, a felony of the fourth degree, on or about July 23, 2015, in Case Number CR-15-594167-A, in the Cuyahoga County Court of Common Pleas, knowingly possessed in and affecting interstate commerce firearms, to wit: a Glock, model 43, 9mm pistol bearing serial number ABXY846; a Taurus, Model G3X, 9mm pistol bearing serial number ACM700869; and a Taurus, Model G2C, 9mm pistol bearing serial number TMU78500, said firearms having been shipped and transported in interstate commerce, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(8).

FORFEITURE

The Grand Jury further charges:

46. The allegations of Counts 1-9 of this Indictment are hereby re-alleged and incorporated herein by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 924(d)(1), Title 28, United States Code, Section 2461(c), Title 18, United States Code, Section 934(a), and Title 21, United States Code, Section 853. As a result of these offenses, Defendants DEVAUNTY LEWIS and NICHOLAS JOHNSON shall forfeit to the United States: (i) any and all firearms and ammunition involved in or used in the (firearms) offenses charged in Counts 1 through 9 of the Indictment; (ii) any and all property constituting - or derived from - any proceeds the Defendants obtained, directly or indirectly, as the result of the (firearms) offenses charged in Counts 4 through 6 of the Indictment; (iii) any and all of their

property used - or intended to be used - in any manner or part, to commit or to facilitate the commission of the (firearms) offenses charged in Counts 4 through 6 of the Indictment; (iv) any and all property constituting - or derived from - any proceeds the Defendants obtained, directly or indirectly, as the result of the (drug) offenses; and, (v) any and all of their property used - or intended to be used - in any manner or part, to commit or to facilitate the commission of the (drug) offenses.

A TRUE BILL.

Original document - Signatures on file with the Clerk of Courts, pursuant to the E-Government Act of 2002.